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WRONGFUL CONVICTION IN CAPITAL CASES: DUE PROCESS FAILURES AND THE ADMINISTRATION OF DEATH PENALTY

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ABSTRACT

India's capital punishment architecture promises rigorous constitutional protection through Articles 20, 21, and 22, reinforced by Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS) confirmation procedures (Sections 407-412), pregnancy commutation (Section 456), and mercy timelines (Section 472). Yet NCRB 2024 reveals 564 death row inmates with 77.4% trial court death sentences overturned on appeal exposing systemic trial contamination rather than appellate leniency. Six failure vectors converge catastrophically: custodial torture yielding coerced confessions (70-80% cases per Project 39A), eyewitness misidentification, forensic deficiencies (29 understaffed FSLs), prosecutorial misconduct, ineffective legal aid serving 90% indigent defendants, and caste/class-biased tunnel vision disproportionately afflicting Scheduled Castes/Tribes (28-35% overrepresentation).

This doctrinal study traces due process evolution from *A.K. Gopalan* (1950) proceduralism through *Maneka Gandhi* (1978) substantive revolution to *Bachan Singh* (1980) "rarest of rare" balancing. BNSS analysis reveals modernization gaps, while ICCPR scrutiny highlights isolation among 112 abolitionist states. UK CCRC model contrasts India's judge-dependent review. Landmark cases—*Dhananjoy Chatterjee* (1994 depravity), *Santosh Bariyar* (2009 two-part test), *Mukesh/Nirbhaya* (2017 societal shock)—demonstrate doctrinal inconsistency (82% death references fail *Bachan* special reasons). Twelve reforms span immediate (video interrogations), medium (forensic databases), and structural horizons (Innocence Panels, moratorium). Thesis: wrongful convictions are systemic outcomes; fallible systems cannot ethically administer irreversible punishment without Article 21 violation.

Keywords: wrongful convictions, death penalty, BNSS 2023, rarest of rare, due process, Article 21, custodial torture, forensic science, CCRC, ICCPR

CHAPTER 2 CONSTITUTIONAL AND LEGAL FRAMEWORK GOVERNING WRONGFUL CONVICTION IN CAPITAL CASES

In Chapter 2, due process is examined as the foundation of justice in Indian criminal trials, particularly in capital cases where erroneous convictions have permanent repercussions. It examines the protections provided by Articles 20, 21, and 22 of the Constitution, which are enlarged by Supreme Court decisions such as Bachan Singh (1980) and Maneka Gandhi (1978) and forbid ex post facto laws, self-incrimination, arbitrary detention, and unfair procedures. The analysis critiques enduring systemic flaws like coerced confessions, faulty forensics, and socioeconomic biases while including international fair trial standards from the ICCPR and statutory mechanisms in recent criminal laws.The concept of due process of law and its function in guaranteeing justice in criminal trials, especially in capital cases is studied in Chapter 2. It examines constitutional

protections found in Articles 20, 21, and 22 of the Indian Constitution and charts the development of due process through significant rulings by the Supreme Court. The chapter examines the statutory safeguards provided under the Code of Criminal Procedure and the Indian Evidence Act that aim to protect the rights of the accused during investigation and trial. It also incorporates international fair trial standards under human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR). [334]The chapter critically evaluates whether these legal safeguards are adequately implemented in practice to prevent wrongful convictions in death penalty cases.

This chapter further analyses systemic failures such as coerced confessions, custodial torture, unreliable eyewitness testimony, forensic errors, investigative bias, prosecutorial misconduct, and ineffective legal representation.[335] It highlights how socio-economic vulnerability and lack of access to competent legal aid increase the risk of wrongful convictions.

2.1 Meaning of Wrongful Convictions

When an individual is found guilty of a crime he/she did not commit, it is called a wrongful conviction.[336] There are several errors that are usually committed by police officials, witnesses, experts, and lawyers that may lead to wrongful convictions. The convictions are usually regarded as wrong for two reasons. Either the accused was involved in procedural errors that infringed on their rights, or they are factually innocent of the charges brought against them. It is because of this that wrong convictions are also called "actual innocence."[337]

The Following Are Five Common Reasons That Are Cited as to Why Wrong Convictions Occur:

Eyewitness Misidentification: Years of scientific research have proven that eyewitness identification is flawed. The exaggeration of eyewitness testimony is because of how unreliable it is, especially when it is used to identify criminals. Eyewitness misidentification is especially flawed when it is used to make cross-racial identifications. Wrong convictions also occur because an individual is 1.5 times more likely to misidentify the face of a stranger who is of a different race than their own[338].

False Confessions: It may also result from a number of factors such as being coerced into making a false confession, being forced to go without food, drinks, and sleep, having a diminished capacity or mental impairment, being young, being ignorant of the law, being denied the right to counsel during the interrogation under the Fifth Amendment, having a simple misunderstanding, being subjected to suggestive questions, and being tortured[339].

Bad Lawyering: The defence advocates may be ineffective, incompetent, and overworked and may often let the other factors that may lead to wrongful convictions go uncontested in court. The ineffective legal assistance may assume many different forms, but the most common include napping during the trial, failing to prepare the opening and closing speeches, failing to file the petitions, and failing to investigate the alibis and bad forensic evidence[340].

Unreliable Informant Testimony: In many cases, the informants stand to gain financially or have a guarantee of not being prosecuted or having a lighter sentence for their crimes in exchange for their testimony against the defendant. In addition, the informants may not reveal the whole truth to the judge. In a bid to get the necessary information they need to support their false testimony against the defendant in the fraudulent scheme they are involved in, the

[334] International Covenant on Civil and Political Rights, 1966, art.14.
[335] Law Commission of India, "273rd Report on custodial deaths, 2017".
[336] Brandon L. Garrett, *Convicting the Innocent: Where Criminal Prosecutions Go Wrong* (Harvard University Press 2011).
[337] Keith A. Findley, 'Innocence Protection in the Appellate Process' (2002) 93 Marquette Law Review 591.
[338] National Research Council. *Identifying the Culprit: Assessing Eyewitness Identification*. National Academies Press, 2014.
[339] Kassin, Saul M., et al. "Police-Induced Confessions: Risk Factors and Recommendations." *Law and Human Behavior*, vol. 34, no. 1, 2010, pp. 3–38.
[340] American Bar Association. *Guidelines for the Appointment and Performance of Defence Counsel in Death Penalty Cases*. American Bar Association, 2003.

informants may give testimony in more than one case[341].

Unreliable or Improper Forensic Science: In many criminal trials, the use of "junk science" is a major problem. This includes microscopic hair comparison, weapon tool marks and imprint evidence, bite mark analysis, shoe print comparison, and fire "science." Experts in these sciences often give testimony that is well beyond the limited knowledge they have of their own subject matter[342].

2.2 Historical Background of Wrongful Convictions

The history of wrongful convictions in capital crimes in India reflects a complex evolution with the nation's legal traditions, colonial influences, and post-colonial judicial reforms. In ancient times, legal codes such as Kautilya's 'Arthashastra' dating back to the 4th century BCE advocated for capital punishments for serious crimes such as treason, murder, or rebellion against the ruling government through primitive trial processes that depended on royal edicts, witness testimonies, or trials by ordeal.[343] However, the lack of standardized procedures such as forensic evidence, cross-examination rights, or appeals processes meant that wrongful convictions were endemic, especially in situations where political considerations or coerced confessions were involved. The medieval empires, including the Mughal Empire in the 16th to 19th centuries, followed Islamic Sharia law in meting out hudud punishments for crimes such as murder or adultery, with death sentences such as stoning or beheading.[344] The emperors, however, had the power to show mercy in such situations, as exemplified in the rule of Akbar. Nevertheless, systemic biases, torture in custody, and the lack of legal representation paved the way for wrongful convictions in capital crimes.

Colonial Period: This marked a major change when the Indian Penal Code (IPC) of 1860 established death as a discretionary penalty for 28 crimes, mostly murder under Section 302 of the IPC, waging war against the government, or terrorism-related crimes.[345] Common British law influences on the colonial period emphasized confessions under the Police Act of 1861,[346] often by third-degree methods, resulting in false evidence and wrongful convictions in capital crimes. Political executions of revolutionaries Bhagat Singh, Rajguru, and Sukhdev in 1931 under the Lahore Conspiracy Case [347]provisions also highlighted the arbitrariness of the system due to the lack of due process and the limited right to appeal in a hurried trial. In most ordinary crimes, the lack of investigation, unreliability of eyewitnesses, and class considerations dominated the colonial approach to trials, where deterrence was the primary goal rather than arriving at the truth. This period established the evidentiary problems that would plague the Indian legal system in the post-colonial period, as the continuation of the IPC highlighted the problems of capital punishment administration.

In the post-independence period, the Indian Constitution of 1950 incorporated due process under Articles 20 (ex post facto laws, double jeopardy, self-incrimination), 21 (right to life and liberty), and 22 (arrest procedures), which have developed from the mere "procedure established by law" standard (A.K. Gopalan v. State of Madras, 1950)[348] to the current standard of substantive due process (Maneka Gandhi v. Union of India, 1978)[349]. In the early capital case of Jagmohan Singh v. State of UP (1973), the Supreme Court upheld the constitutional validity of the death penalty, while also revealing the lack of limits on sentencing discretion[350]. In the 1970s, there were dramatic examples of the Indian death penalty system in

[341] Natapoff, Alexandra. *Snitching: Criminal Informants and the Erosion of American Justice*. NYU Press, 2009.
[342] National Academy of Sciences. *Strengthening Forensic Science in the United States: A Path Forward*. National Academies Press, 2009.
[343] Kautilya (Chanakya), *Arthashastra*, trans R. Shamasastry (1915).
[344] M.P. Jain, *Outlines of Indian Legal History* (LexisNexis, 7th edn., 2014).
[345] The Indian Penal Code,1860(Act 45 of 1860), s 302.
[346] The police Act,1861(Act 5 of 1861)
[347] Bhagat Singh v Emperor (Lahore Conspiracy Case, 1931).
[348] A.K. Gopalan v State of Madras AIR 1950 SC 27.
[349] Maneka Gandhi v Union of India (1978) 1 SCC 248.
[350] Jagmohan Singh v State of Uttar Pradesh (1973) 1 SCC 20.

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disarray. In the Jeeta Singh and Harbans Singh case, despite the Supreme Court reducing the death sentence of a co-defendant in 1978, the clemency petition inexplicably delayed the execution of Jeeta Singh, who was executed in 1981 a "freakish" case that the Supreme Court lamented in Bachan Singh v. State of Punjab (1980), which established the requirement of a balance of aggravating and mitigating circumstances in the "rarest of rare" capital case standard[351].

The 1980s-1990s saw an increased awareness of systemic failure, as reflected by decisions such as Ravji v. State of Rajasthan (1996)[352] and Surja Ram v. State of Rajasthan (1997), which departed from Bachan Singh by ignoring factors of mitigation (mental health, youth), resulting in convictions that were later deemed to have been given per incuriam[353]. The year 2012 saw 14 retired judges petitioning then-President Pratibha Patil for pardons in nine of these wrongful convictions. The anti-terror laws of TADA/POTA have also increased the chances of systemic failure, as reflected by the Akshardham temple bombing case of 2002, where three death convictions were set aside by the Supreme Court in 2014 on grounds of fabricated confessions and interference by intelligence agencies.

In the present context (2010s-2026), statistics from Project 39A [354]show that more than 200 death sentences have been commuted or quashed between 2016-2022, attributing these to investigative failures, custodial deaths (2,700 till 2024, per NHRC figures), and hostile witnesses. The acquittal of a wrongly convicted person in 2025 by the Supreme Court after 12 years of imprisonment on police-fabricated evidence is a landmark example of the ongoing infringement of Article 21. Reforms introduced through the Bharatiya Nyaya Sanhita (BNS) and Bharatiya Nagarik Suraksha Sanhita (BNSS) in 2023, which include mandatory forensic investigation in capital cases (Section 176 of BNSS), timelines in arriving at judgments, and witness protection, seek to remedy these. However, these have also been criticized for inadequate compensation measures, in the absence of a statutory framework despite the Law Commission's 262nd Report of 2015[355]. This evolution from retributive ancient edicts to more progressive reforms points to the ongoing failure of due process in the administration of the death penalty, which can result in irreversible tragedies.

2.3 Constitutional Protections for Wrongful Convictions

In the Indian criminal justice system, due process of law is essential for justice, particularly in capital cases where the death penalty has irreversible consequences. It ensures that no one can lose their life or freedom through random, unfair, or procedurally flawed practices. This principle protects individuals from the state's excessive power. This chapter examines the constitutional framework provided by Articles 20, 21, and 22 of the Indian Constitution,[356] especially in cases of wrongful convictions that can lead to innocent people facing death due to systemic issues. It tracks the development of due process from strict procedural roots to a more substantive theory focused on rights, shaped by important Supreme Court rulings.

A deliberate constitutional choice led to India opting for the narrower "procedure established by law" language in Article 21 instead of the broader "due process" clause seen in the U.S. Fifth and Fourteenth Amendments. This choice was shaped by a historical reluctance to allow judicial overreach following colonial rule. Consequently, this limited view let preventative detention laws escape extensive scrutiny, treating fundamental rights in isolation.

However, the case Maneka Gandhi v. Union of India (1978)[357] marked a pivotal shift in the post-

[351] Bachan Singh v State of Punjab (1980) 2 SCC 684.
[352] Ravji v State of Rajasthan (1996) 2 SCC 175.
[353] Surja Ram v. State of Rajasthan, (1996) 9 SCC 574 (SC).
[354] Project 39A, *Death Penalty India Report* (National Law University Delhi, latest edition).
[355] Law Commission of India, *"262nd Report on The Death Penalty* (2015).
[356] The Constitution of India, arts. 20, 21, 22.
[357] *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

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Emergency context by insisting that any legal process must be "fair, just, and reasonable," rather than arbitrary or harsh. The ruling in Bachan Singh v. State of Punjab (1980) rejected mandatory death sentences and established the "rarest of rare" standard, adding crucial weight to the law in capital cases[358]. Courts are now required to weigh mitigating factors, such as the accused's age, mental health, socio-economic background, and chances for rehabilitation, against aggravating factors like the severity of the crime or harm done to society. This tailored approach, refined in Machhi Singh v. State of Punjab (1983), classified cases based on crime type (like mass killings or bride burnings) and cautioned against its rigid application in order to prevent wrongful death penalties[359].

The three rights in Article 20 specifically aim to prevent government overreach that could lead to wrongful convictions. This was strongly reinforced in Kedar Nath Bajoria v. State of West Bengal (1953)[360], which struck down retrospective punishments that could wrongly elevate offenses to capital status. The first clause prohibits ex post facto laws, ensuring criminal liability only applies to actions that were illegal at the time they were done. The second clause prevents double jeopardy, barring a person from being prosecuted again for the same crime after being acquitted or convicted. This principle extends beyond court cases to include administrative actions. The third clause, which forbids self-incrimination, makes any testimony obtained under pressure whether physical or mental unusable. The right to silence was affirmed in Nandini Satpathy v. P.L. Dani (1978)[361], where it was interpreted to include indirect coercion, such as prolonged questioning without proper warnings. This issue ties into custodial confessions, which, according to the National Crime Records Bureau (NCRB), underpin many death row convictions and are frequently obtained under duress[362].

Article 21 states that "no person shall be deprived of his life or personal liberty except according to procedure established by law," and has expanded into a broad right encompassing many protections. The right to a speedy trial was recognized after Maneka in Hussainara Khatoon v. State of Bihar (1979)[363], which deemed long detentions for undertrials unlawful. This is especially critical in death penalty cases, as time can weaken witness accounts and alibis. Hussainara highlighted how often overworked and inexperienced lawyers provide little to no help, despite legal aid being mandated under Article 39A linked with Article 21, which requires the state to provide skilled counsel. Article 21 also calls for pre-sentence hearings under CrPC Section 235(2) now BNSS for death penalty cases. These hearings assess the complete circumstances of the accused to ensure fair punishment. In Shatrughan Chauhan v. Union of India (2014)[364], the Court reduced the sentences of fifteen prisoners due to "insufficient legal help" and "excessive delay" in handling mercy petitions, which established the latter as part of Article 21. Ediga Anamma v. State of Andhra Pradesh (1974) stressed the importance of mercy for women and young people. While the Supreme Court maintained the rarest of rare standard in Mukesh v. State (Nirbhaya case, 2017), concerns remain about its inconsistent application, which could lead to biases.

Article 22 enhances the procedures around arrest and detention, critical moments where wrongful convictions can begin. It mandates that individuals be presented before a magistrate within 24 hours, not counting travel time, discloses the reasons for the arrest, and allows for notifying a relative or friend. These measures help combat the common practice of "midnight arrests" and incommunicado

[358] *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.
[359] *Machhi Singh v. State of Punjab*, (1983) 3 SCC 470.
[360] *Kedar Nath Bajoria v. State of West Bengal*, AIR 1953 SC 404.
[361] Nandini Satpathy v P.L. Dani (1978) 2 SCC 424.
[362] National Crime Records Bureau, *Prison Statistics India 2024* (Ministry of Home Affairs, Govt. of India).
[363] Hussainara Khatoon v State of Bihar AIR 1979 SC 1360.
[364] Shatrughan Chauhan v Union of India (2014) 3 SCC 1.

detention seen in custodial deaths. To prevent torture, D.K. Basu v. State of West Bengal (1997)[365] implemented eleven mandatory guidelines, including arrest memos, visitor logs, and regular medical check-ups, and held police officers personally responsible for breaches. The rules in Clauses (4) to (7) prevent indefinite detentions that could lead to evidence being manipulated, guiding routine arrests even as they govern preventative detention with advisory board reviews every three months. Here, violations contribute to false confessions that can lead to capital charges, alongside the numerous custodial deaths reported by the NHRC (over 1,700 annually).

To make up for the Constitution's hesitancy on explicit reparations for wrongful convictions, the judiciary has cleverly created a "public law remedy" through broad writ jurisdiction under Articles 32 and 226. An important turning point was reached in Rudul Sah v. State of Bihar (1983)[366], where the Supreme Court granted interim and final monetary compensation to a petitioner who had been wrongfully detained for 14 years after being acquitted because of bureaucratic inertia. The court reasoned that the violation of Article 21 entitled to not only declaratory relief but also restitutionary justice that could be enforced against the state. This idea was enshrined in Nilabati Behera v. State of Orissa (1993)[367], which rejected the sovereign immunity defenses common in private tort law and emphasized the court's epistolary jurisdiction to deter constitutional torts. It also invoked absolute state liability for custodial deaths that violated Article 21.

This framework has been continually enhanced through active interpretation by the Supreme Court. In Olga Tellis v. Bombay Municipal Corporation (1985), Article 21 was extended to cover the right to livelihood, benefiting impoverished defendants and shifting from a rigid pre-Maneka approach to a more integrated rights perspective. Forced narco-analysis, polygraphs, and brain scanning were deemed unconstitutional in Selvi v. State of Karnataka (2010)[368] due to their violation of bodily integrity and potential for self-incrimination. Mandatory death sentences under IPC Section 303 were struck down in Mithu v. State of Punjab (1983)[369] as restrictive on judicial discretion. Recent verdicts in 2025 touch on the need to reassess closed cases in light of DNA exonerations, while Jagdish v. State of Madhya Pradesh (2022)[370] focused on evaluating probabilistic evidence in capital mercy decisions. Although application varies, this judicial trend brings India closer to aligning with international standards.

2.4 **Wrongful Conviction Covering Under Bharatiya Nagarik Suraksha Sanhita**

The BNSS legal provisions enforce constitutional principles. Section 48 requires timely notification[371], while Section 35(3) to section 35(6) prevents arbitrary detentions by mandating notice before arrests for serious offenses. Section 187 restricts police detention to a maximum of 15 days, after which it is subject to judicial oversight[372]. For serious crimes, FIRs must be registered without preliminary inquiries (Lalita Kumari v. Govt. of U.P., 2014), ensuring prompt, impartial investigations as outlined in Sections 175-193. Section 351 allows the accused to explain circumstantial evidence[373]. The directives from Bachan Singh are incorporated into Section 392(3), which ensures "special reasons" must be provided for death sentences, as confirmed by High Court Division Benches under Section 410 of BNSS[374].

The analysis also explores statutory protections found in BSA and BNSS, which implement these rights during the critical stages of investigation, trial, and sentencing. The chapter evaluates how international principles of fair trial have been integrated into Indian law, referencing

[365] D.K. Basu v State of West Bengal (1997) 1 SCC 416.
[366] Rudul Sah v State of Bihar (1983) 4 SCC 141.
[367] Nilabati Behera v State of Orissa (1993) 2 SCC 746.
[368] Selvi v State of Karnataka (2010) 7 SCC 263.
[369] Mithu v State of Punjab (1983) 2 SCC 277.
[370] Jagdish v. State of M.P (2009) 9 SCC 419.
[371] The Bharatiya Nagarik Suraksha Sanhita,2023 (Act 46 of 2023), s.48.
[372] Ibid s. 187.
[373] Ibid s. 351.
[374] Ibid s. 410

documents like the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and UN guidelines. It examines how effective these protections are in practice and highlights ongoing issues that contribute to wrongful convictions, particularly in death penalty cases.

Following Section 250 of the CrPC, Section 273 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, provides a crucial statutory mechanism for compensating victims of malicious or false prosecution[375]. It gives magistrates the authority to impose financial redress at the end of the trial in cases where accusations turn out to be baseless, frivolous, or vexatious. If the court determines that there are no reasonable grounds for initiating proceedings after an acquittal or discharge, it may order the complainant or informant to pay the accused up to ₹10,000 (the exact amount is up to the judge's discretion), which can be recovered as a fine. Failure to comply may result in simple imprisonment for up to one month, and appellate courts have the authority to enforce or amend orders.

Similar to Section 357A CrPC, Section 396 BNSS requires state governments to work with the Center to develop victim compensation plans that are financed by special exchequer allocations and focus on rehabilitation for victims of crimes who have suffered trauma, loss, or injury[376]. Despite being supposedly victim-centric, judicial exegesis has broadly interpreted "victim" to include innocent people who were wrongfully prosecuted and who have suffered from trial-induced poverty, stigma, or psychological scars. This has made it possible to seek medical assistance, livelihood restoration, or temporary relief even in cases where the offender has not been found guilty. This interpretive flexibility makes Section 396 a viable avenue for post-acquittal assistance in miscarriage cases, consistent with constitutional tort precedents such as Rudul Sah. However, its effectiveness depends on the strength of the state scheme, which is frequently underfunded and bureaucratically complex, making it more aspirational than guaranteed for wrongful conviction relief.

A statutory right to appeal convictions to higher courts within specified timeframes (such as 30 days for the High Court and 90 days for the Supreme Court) is enshrined in Section 415 BNSS[377]. This gives appellate forums the full authority to reevaluate facts, law, and evidence from scratch, which frequently results in acquittals when investigative misconduct is discovered. In addition, Section 334 facilitates the verification of past convictions or acquittals through certified records, preventing double jeopardy under Article 20(2) and supporting appeals based on disregarded exonerating evidence[378].

Factors such as coerced confessions, torture while detained, mistaken eyewitness identification, forensic mistakes, investigative biases, prosecutorial misconduct, and poor legal representation are analyzed. The discussion especially emphasizes how social and economic disadvantages heighten risks for marginalized communities.

Proof admissibility is strictly defined by BSA section. Police confessions made under Section 23 are considered invalid from the start, except for the "fact discovered" exceptions under Section 24. Section 21 prevents confessions made under fear, promise, or inducement, posing challenges for victims of torture. According to Uka Ram v. State of Rajasthan (2001), dying declarations under Section 29 must be treated with caution. Expert opinions under Section 42 can enhance forensic evidence, but widespread delays undermine their effectiveness. To avoid convictions based on incomplete truths, circumstantial chains under Section 119 must be thorough.

Ethical considerations are shaped by international standards. The presumption of

[375] The Bharatiya Nagarik Suraksha Sanhita,2023 (Act 46 of 2023), s.273.
[376] The Bharatiya Nagarik Suraksha Sanhita,2023 (Act 46 of 2023), s.396.
[377] Ibid s. 415.
[378] The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s.334.

innocence, fair public trials with qualified counsel, and the right to appeal are secured by ICCPR Article 14 and acknowledged by the judiciary. Article 6 limits executions to "intentional crimes with lethal consequences," which prohibits mandatory penalties[379]. This is reflected in UDHR Articles 10 and 11,[380] with revisions guided by the Body of Principles for Protection of All Persons under Any Form of Detention and the UN Standard Minimum Rules for Non-custodial Measures. Calls for a moratorium are influenced by the UN Human Rights Committee's reports on India from 1997 and 2020, which address issues such as juvenile executions and solitary confinement.

However, gaps in implementation hide theoretical resilience. According to NCRB 2024 data, there are 3,862 death row inmates[381]. Project 39A investigations reveal that 70 to 80% of these convictions are tainted by torture and result from coerced confessions. Modifications to Section 176 of the CrPC indicate that 1,778 deaths in custody in 2024 evade prosecution. A forensic crisis looms: 29 FSLs are grappling with backlogs that span years, with DNA testing in less than 10% of cases and significant error rates due to 40% staff vacancies.

Despite prohibitions, coerced confessions remain common. International comparisons, like the U.S. Innocence Project, show that 25% of confessions are false, a trend echoed in Akhilesh v. State (2023). Even with warnings in Ramanand v. State of Haryana (2009), custodial torture, banned by Section 330 IPC, continues in "blue rooms" that go unmonitored since D.K. Basu. Eyewitness errors, influenced by biases and focusing on weapons, lead to wrongful convictions.

Mishandled samples and outdated technology, such as serology instead of DNA, illustrate forensic failures. Investigative biases foster tunnel vision, often ignoring alibis; caste biases lead to an overrepresentation of Dalits by 28%. In Zahira Habibullah Sheikh v. State of Gujarat (2004 Best Bakery retrial)[382], prosecutorial misconduct in hiding Brady-like evidence breaching ethical standards harms the process.

90 percent of death row inmates are poor or uneducated, and amicus curiae are inactive. Many defendants are left with ineffective counsel. Socioeconomic challenges, including poverty, illiteracy, migration, and lack of forensic access, put minorities at two to three times greater risk.

Due to a persistent lack of political will, the implementation of seven binding directives issued by the Supreme Court in Prakash Singh v. Union of India (2006)[383] to improve police autonomy, accountability, and tenure security has stalled. Many states show partial or no compliance nearly two decades later. Police services remain vulnerable to executive control and lobbying for favorable assignments, allowing political interference to weaken protective measures against bias. This situation worsens with modernization projects stalling; each year, 30 to 40% of the Police Modernization Fund goes unused, complicating the acquisition of essential technology and forensic tools needed for fair capital investigations.

Even though the Supreme Court approved the Witness Protection Scheme in Mahender Chawla & Ors v. Union of India, it remains underdeveloped[384]. The Witness Protection Fund is empty, and there are insufficient resources for secure waiting rooms and relocations. This leads to witness retractions in high-profile cases and fosters a culture of fear that undermines trial integrity. Witness protection efforts also suffer from chronic underfunding and inactivity. The Witness Protection Scheme, 2025, announced under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, aims to enhance these protections, but its effectiveness needs real-world testing amid ongoing resource

[379] International Covenant on Civil and Political Rights, Arts 6 & 14.
[380] Universal Declaration of Human Rights, Arts 10 & 11.
[381] National Crime Records Bureau, "Prison Statistics India 2024".
[382] Zahira Habibullah Sheikh v State of Gujarat (2004) 4 SCC 158.
[383] Prakash Singh v Union of India (2006) 8 SCC 1.
[384] Mahender Chawla & Ors v. Union of India (2019) 14 SCC 615.

limitations. Nevertheless, recent developments offer some hope for improvement.

The 262nd Report of the Law Commission of India (2015) took a strong stance against the death penalty, recommending its complete repeal except for terrorism-related offenses and waging war against the state. This was regarded as a significant first step towards abolishment. The Commission highlighted empirical evidence showing that the death penalty does not deter

Crime more effectively than life imprisonment. Its application remains uneven, disproportionately affecting the poor, illiterate, and marginalized who cannot access strong defences. Despite compelling arguments against it, the death penalty persists in India's legal system, often justified in terms of retribution and national security. This continues to fuel a debate between reformist views and public demands for harsh justice in capital cases.

2.5 Wrongful Conviction Covering Under Bharatiya Nyaya Sanhita

Section 229 addresses the penalties for providing or creating false testimony. It distinguishes crucially between false testimony provided in court and false testimony provided in other contexts. Because it directly interferes with the administration of justice, lying under oath or fabricating evidence during a court proceeding is considered a serious offense by the law. In these circumstances, the penalty could include a fine of up to ten thousand rupees and seven years in prison. In addition to ordinary court trials, judicial proceedings also include court-martial trials, legally mandated investigations conducted prior to the start of a court proceeding, and investigations conducted with a court's approval or direction[385].

A far more serious situation is covered by Section 230: when someone provides or fabricates false evidence with the goal of getting someone convicted of a capital offense an offense that carries a death sentence. Since the purpose of the false evidence is to endanger the life of another person, the law punishes such cases severely. In addition to a fine of up to 50,000 rupees, the offender faces a maximum sentence of ten years in rigorous prison or life in prison. The goal of obtaining a conviction for a capital offense is crucial in this case. If an innocent person is convicted and put to death as a result of the false evidence, the law becomes even more severe[386].

False evidence used to convict someone of a serious crime that carries a life sentence or a sentence of seven years or more in prison but not the death penalty is covered by Section 231. In these cases, the penalty for the person providing false testimony is equivalent to the penalty the person who was falsely accused would have received if found guilty. Stated differently, the law holds the false witness accountable for the punishment they intended to inflict on another person. This guarantees proportional justice and serves as a powerful disincentive to attempts to abuse the legal system in order to cause serious harm[387].

Section 248 - Falsely accusing someone of a crime or starting criminal proceedings against them with the specific intent to cause harm while knowing that the accusation has no legal basis is illegal. Knowing that the charge is untrue and acting with the intention of harming the other person whether by tarnishing their reputation, putting them in danger of being arrested, or putting them in legal hot water are the two essential components. The law punishes such offenses with a maximum sentence of five years in prison, a fine of up to two lakh rupees, or both. If the false charge is connected to a very serious offense that carries a death sentence, life in prison, or a ten-year or longer prison sentence, the penalty is harsher. The law raises the maximum penalty for the false accuser to up to ten years in prison and a fine because such accusations can expose the

[385] The Bharatiya Nyaya Sanhita,2023 (Act 45 of 2023), s.229.

[386] Ibid s. 230.

[387] Ibid s. 231.

victim to very serious consequences, such as the possibility of long-term imprisonment or even the death penalty[388].

section 257 of the Bharatiya Nyaya Sanhita is concerned with the misconduct of a public servant in the context of a judicial proceeding. This section is applicable in cases where a public servant, who is legally authorized to conduct, decide, or make a report in such a proceeding, acts in a corrupt manner contrary to law. This includes cases where the public servant makes a false or unlawful report, order, decision, or verdict not due to an error of judgment or misunderstanding, but as a result of dishonest intention, prejudice, personal motive, or other improper reasons. The word "corruptly" is very important in this section, as it requires proof that the act was done intentionally and with wrongful motive.

This is because the matter is taken seriously by the law since court proceedings have a direct bearing on the rights, liberty, and property of individuals. Moreover, when a public servant misuses the legal powers they have in court proceedings, it leads to a loss of public confidence in the justice system and may also lead to serious injustice[389].

Section 258 of the Bharatiya Nyaya Sanhita describes the crime perpetrated by a person who has the legal power to commit another for trial or to confine them, but does so knowingly and illegally in the process. This section is applicable to public servants or officials, such as magistrates or other persons who possess legal power to commit an accused for trial or to detain them. When such a person knowingly commits an accused for trial or detains them without legal reason or in contravention of legal procedures, and is also aware that they are doing so illegally, they commit an offence under this section. The important aspect of this section is that the person must be aware that they are doing something illegal, not just erring out of ignorance.

The offense is considered a serious one by the law because an illegal trial commitment or illegal detention has a direct bearing on an individual's basic right to liberty. An illegal order of detention may lead to unjust imprisonment, mental anguish, and loss of reputation. Thus, Section 258 provides for imprisonment and may also carry a fine, which is a measure of the severity of the abuse of authority. The intention of this section is to ensure that individuals who are given the authority to limit the liberty of individuals use such authority within the strict letter of the law and that any abuse of such authority is criminalized[390].

[388] The Bharatiya Nyaya Sanhita,2023 (Act 45 of 2023), s.248.
[389] Ibid s. 257.
[390] Ibid s.258.